

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Siskiyou)

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THE PEOPLE,

Plaintiff and Respondent,

v.

LEE KELLY CLARKE,

Defendant and Appellant.

C044901

(Super. Ct. No.  
CRBF03-1968)

Defendant Lee Kelly Clarke appeals from the trial court's order temporarily suspending proceedings pursuant to Penal Code section 1368 and ordering experts to evaluate defendant in order to determine whether he was competent to stand trial.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date

of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

As we will explain, the appeal must be dismissed.

Defendant appealed from the entry of a minute order suspending the proceedings and stating: "Court rules def[endant] is incompetent to stand trial pursuant to 1368 PC. Court appoints [two doctors] for evaluations pur[suant] to PC 1368."

An appeal may be taken from an order suspending criminal proceedings and committing a defendant to a state hospital until his or her sanity is restored. (*People v. Fields* (1965) 62 Cal.2d 538, 542.) Here, however, the trial court's ruling under Penal Code section 1368 was simply an intermediate order temporarily suspending proceedings pending a final determination of defendant's competence after expert evaluation. Indeed, defendant's appellate counsel informs us that the court ultimately found defendant to be competent following the expert evaluations.

In short, there was no final, appealable, determination that defendant was "insane and directing that he be committed . . . ." (*People v. Fields, supra*, 62 Cal.2d at p. 540.)

This appeal is dismissed.

SCOTLAND, P.J.

We concur:

SIMS, J.

MORRISON, J.